

Commonwealth of Massachusetts
HAMPSHIRE SUPERIOR COURT
Case Summary
Civil Docket

FILED
CLERK'S OFFICE

HSCV2004-00161
Councilman v Alibris, Inc et al

10/28/2004 A 10:38

File Date	07/12/2004	Status	Disposed: transferred to other court (dtrans)
Status Date	10/27/2004	Session	A - Civil A- CtRm 2-3rd fl
Origin	1	Case Type	B99 - Misc tort
Lead Case		Track	F

U.S. DISTRICT COURT
DISTRICT OF MASS

04 CV 30208-KPN

Service	10/10/2004	Answer	12/09/2004	Rule 12/19/20	12/09/2004
Rule 15	12/09/2004	Discovery	05/08/2005	Rule 56	06/07/2005
Final PTC	07/07/2005	Disposition	09/05/2005	Jury Trial	Yes

PARTIES

Plaintiff

Bradford C. Councilman
Active 07/12/2004

Private Counsel 201240

Andrew Good
Silvergate & Good
83 Atlantic Avenue
Boston, MA 02110
Phone: 617-523-5933
Fax: 617-523-7554
Active 07/12/2004 Notify

Private Counsel 658726

Matthew Zisow
83 Atlantic Avenue
Boston, MA 02110
Phone: 617-523-5933
Fax: 617-523-7554
Active 07/12/2004 Notify

Defendant

Alibris, Inc
Served: 09/24/2004
Served (answr pending) 09/28/2004

Private Counsel 557609

Katherine A Robertson
Bulkley Richardson & Gelinas
1500 Main Street
Suite 2700
Springfield, MA 01115-5507
Phone: 413-781-2820
Fax: 413-785-5060
Active 10/14/2004 Notify

Defendant

Michael Warchut
Served: 09/24/2004
Served (answr pending) 09/28/2004

Commonwealth of Massachusetts
HAMPSHIRE SUPERIOR COURT
Case Summary
Civil Docket

HSCV2004-00161
Councilman v Alibris, Inc et al

Defendant Peter Krotkov Served: 09/22/2004 Served (answr pending) 09/30/2004	
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ENTRIES

Date	Paper	Text
07/12/2004	1.0	Complaint with jury claim & civil action cover sheet filed
07/12/2004		Origin 1, Type B99, Track F.
07/12/2004		Case selected for review pursuant to ST.1996.c358,s.5
07/12/2004		Tracking: origin/track set and mailed to Attorney Good.
07/12/2004		Notice of 93A complaint sent to Attorney General in Boston and Springfield.
09/28/2004	2.0	SERVICE RETURNED: Alibris, Inc(Defendant)
09/28/2004	3.0	SERVICE RETURNED: Michael Warchut(Defendant)
09/30/2004	4.0	SERVICE RETURNED: Peter Krotkov(Defendant) (Photo copy only as original damaged by Post Office)
10/14/2004	5.0	Atty Katherine A Robertson's notice of appearance for Alibris, Inc
10/14/2004	6.0	Assented-to motion to extend time to answer or respond to complaint.
10/25/2004		MOTION (P#6) ALLOWED by agreement (Peter A. Velis) Notices mailed October 25, 2004
10/27/2004	7.0	Notice for Removal to the United States District Court filed by Alibris, Inc
10/27/2004		Case REMOVED this date to US District Court of Massachusetts

EVENTS

Date	Session	Event	Result
10/14/2004	Civil A- CtRm 2-3rd fl	Status: administrative (6) Assented to	Event held as scheduled

Commonwealth of Massachusetts

County of Hampshire

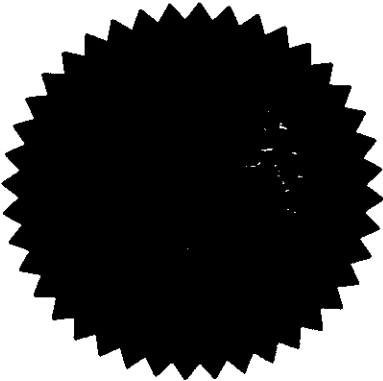
The Superior Court

FILED
CLERK'S OFFICE

OCT 28 A 10:38

U.S. DISTRICT COURT
DISTRICT OF MASS


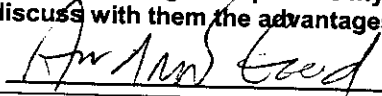
I, **Nancy A. Foley**, Assistant Clerk of the Superior Court of the Commonwealth of Massachusetts within and for said County of Hampshire, do certify that the papers hereto annexed are true pleadings in case No. **HSCV2004-00161** entered in the Superior Court on **07/12/2004**.



IN TESTIMONY WHEREOF, I hereunto set my hand and
affix the seal of said Superior Court,
at said Northampton
this 27th day of October, in the year of our
Lord 2004

Nancy A. Foley
Nancy A. Foley, Assistant Clerk

04 161

CIVIL ACTION COVER SHEET	DOCKET NO.(S) This is the Docket NO.	Trial Court of Massachusetts Superior Court Department County:	
PLAINTIFF(S) Bradford C. Councilman		DEFENDANT(S) Alibris, Inc.; Michael Warchut; Peter Krotkov	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Andrew Good, Good & Cormier 83 Atlantic Ave, Boston MA 02110 Board of Bar Overseers number: 201240 617/523-5933		ATTORNEY (if Known)	
Original code and track designation			
Place an x in one box only:		<input type="checkbox"/> 4. F04 District Court Appeal c. 231, s. 97 & 104 (after trial) (<) <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgement/Order (Mass.R.Civ.P. 60) (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)	
CODE NO. B99 Malic. Prosecution, etc.		TYPE OF ACTION AND TRACK DESIGNATION (See reverse side) TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE? (F) (X) YES () NO	
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.			
TORT CLAIMS (Attach additional sheets as necessary)			
A. Documented medical expenses to date:		See Attached	
1. Total hospital expenses		\$	
2. Total Doctor expenses		\$	
3. Total chiropractic expenses		\$	
4. Total physical therapy expenses		\$	
5. Total other expenses (describe)		\$	
		Subtotal	
B. Documented lost wages and compensation to date		\$	
C. Documented property damages to date		\$	
D. Reasonably anticipated future medical and hospital expenses		\$	
E. Reasonably anticipated lost wages		\$	
F. Other documented items of damages (describe)		\$	
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)			
		TOTAL	
		\$	
CONTRACT CLAIMS (Attach additional sheets as necessary)			
Provide a detailed description of claim(s):			
		TOTAL	
		\$	
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT			
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."			
Signature of Attorney of Record		DATE:	
		7/9/04	

CIVIL ACTION
COVER SHEETATTACHMENT***ALL MONETARY FIGURES APPROXIMATE***

B.	Documented lost wages and compensation to date	\$300,000.00
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E.	Reasonably anticipated lost wages	\$2,000,000.00
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F.	Other documented items of damages (describe)	\$200,000.00
----	--	--------------

Plaintiff has incurred approximately \$200,000 in legal fees defending against the criminal case generated by defendants' torts.

G.	Brief description of plaintiff's injury, including nature and extent of injury (describe)
----	---

As a direct result of defendants' torts, plaintiff was fired from a job paying him \$94,000/year in base salary, incurred approximately \$200,000 in legal fees, has been unable to obtain employment, and has suffered substantial, permanent reputational injury which will significantly reduce future earning potential, if any.

TOTAL	\$2,500,000.00
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A TRUE COPY
ATTEST

Harry Jekanowski, Jr.
CLERK MAGISTRATE

Commonwealth of Massachusetts
County of Hampshire
The Superior Court

04 161

CIVIL DOCKET# HSCV2004-00161

RE: Councilman v Alibris, Inc et al

TO: Thomas F. Reilly, Attorney General
Consumer Protection Division
One Ashburton Place
Boston, MA 02108-1698

NOTICE OF COMPLAINT FILED UNDER CHAP. 93A

Enclosed is a copy of the Complaint in the above entitled action seeking relief pursuant to G.L. Chap. 93A, filed on **07/12/2004** in the Hampshire Superior Court.

Dated at Northampton, Massachusetts this 12th day of July, 2004.

Harry Jekanowski, Jr.
Harry Jekanowski, Jr.,
Clerk of the Courts

P.C. Office of the Attorney General, Western Mass. Division, 1350 Main Street,
Springfield, MA 01103-1629

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

Superior Court Department
of the Trial Court
Civil Action No. 04-161

BRADFORD C. COUNCILMAN,)
Plaintiff,)
v.)
ALIBRIS, INC.,)
MICHAEL WARCHUT,)
PETER KROTKOV,)
Defendants.)

NOTICE OF FILING OF NOTICE OF REMOVAL

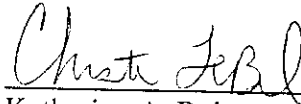
Pursuant to 28 U.S.C. § 1446(d), plaintiff is hereby notified, through service of this Notice upon his counsel of record, that a Notice of Removal of Hampshire County Massachusetts Civil Action No. 04-161 to the United States District Court for the District of Massachusetts, Western Division, was duly filed in the Office of the Clerk of the United States District Court for the District of Massachusetts, Western Division on October 22, 2004. A copy of the Notice of Removal is annexed hereto, together with copies of the pertinent papers served in the Superior Court.

ce of this Noti

This Notice is being filed in the Superior Court pursuant to 28 U.S.C. §1446(d).

Respectfully submitted,

The Defendant,
ALIBRIS, INC.
By Its Attorneys:



Katherine A. Robertson

BBO No. 557609

Christine Y. LeBel

BBO No. 600197

Bulkley, Richardson and Gelinas, LLP

1500 Main Street, Suite 2700

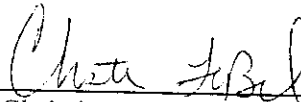
Springfield, MA 01115

Tel: (413) 781-2820

Fax: (413) 272-6804

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by mail on October 22, 2004.



Christine Y. LeBel

281076

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 04-30208-KFW

BRADFORD C. COUNCILMAN,)
Plaintiff,)
v.)
ALIBRIS, INC.,)
MICHAEL WARCHUT,)
PETER KROTKOV,)
Defendants.)

DOCKETED

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, defendant Alibris, Inc. ("Alibris") hereby removes Hampshire County Superior Court Civil Action No. 04-161 to this Court, on the grounds that the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs; is between citizens of different states; and that plaintiff has failed to effect proper service upon the only Massachusetts defendant, Peter Krotkov. In support of this Notice, Alibris states as follows:

PROCEEDINGS IN THE SUPERIOR COURT

1. Plaintiff Bradford C. Councilman filed Superior Court Civil Action No. 04-161 ("Superior Court Action") against Alibris, Inc., Michael Warchut, and Peter Krotkov in the Superior Court of Hampshire County, Massachusetts on or around July 12, 2004. The Complaint seeks damages on claims against all defendants for alleged malicious prosecution, abuse of process, and intentional infliction of emotional distress, and against Alibris for alleged unfair and deceptive acts or practices under Massachusetts General Laws Ch. 93A. Copies of the Complaint and Civil Action Cover Sheet are attached hereto as Exhibit 1.

I HEREBY ATTEST AND CERTIFY ON 10/29/04
THAT THE FOREGOING DOCUMENT IS A FULL, TRUE
AND CORRECT COPY OF THE ORIGINAL ON FILE
IN MY OFFICE AND IN MY LEGAL CUSTODY.

CLERK, U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BY: [Signature]

2. Copies of the Complaint and the Civil Action Cover Sheet were received by defendant Alibris, Inc. on September 24, 2004. A copy of the Alibris Summons with the return of service is attached hereto as Exhibit 2.

3. Copies of the Complaint and the Civil Action Cover Sheet were received by defendant Michael Warchut on September 24, 2004. A copy of the Warchut Summons with the return of service is attached hereto as Exhibit 3.

4. A copy of the Complaint and the Civil Action Cover Sheet allegedly were served on defendant Peter Krotkov on September 22, 2004. A copy of the Krotkov Summons, with the return of service, is attached hereto as Exhibit 4. However, service was not properly effected because it was not made at Mr. Krotkov's last and usual place of abode, as is set forth more fully in the Affidavit attached hereto as Exhibit 5.

5. All other process, pleadings, and orders served in the state court matter are attached hereto as Exhibit 6, consisting of the Superior Court's Tracking Order, a Notice of Appearance filed and served by Alibris' counsel, and an Assented-To Motion to Extend Time to Answer or Respond to Complaint.

6. This Court is the United States District Court for the judicial district and division embracing the place where the action was commenced.

DIVERSITY JURISDICTION

7. This action is within the jurisdiction of this Court pursuant to 28 U.S.C. § 1332(a)(1) because it is an action between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

8. According to the Complaint, plaintiff Bradford C. Councilman is a citizen of the state of New Hampshire and, upon information and belief, remains a citizen of that state.

9. Defendant Alibris was and is incorporated in the state of Delaware with a principal place of business in Emeryville, California.

10. Defendant Michael Warchut, upon information and belief, is a citizen of the state of California and remains a citizen of that state.

11. Defendant Peter Krotkov, upon information and belief, is a citizen of Franklin County in the Commonwealth of Massachusetts and remains a citizen of the Commonwealth.

12. Plaintiff's citizenship is diverse from the citizenship of all defendants.

AMOUNT IN CONTROVERSY

13. Plaintiff seeks damages from all defendants for alleged malicious prosecution, abuse of process, and intentional infliction of emotional distress. Plaintiff also seeks damages from Alibris for alleged unfair and deceptive acts or practices under Massachusetts General Laws Ch. 93A. The Civil Action Cover Sheet states that plaintiff Bradford C. Councilman seeks damages in the amount of \$2,500,000.00, subject to multiplication pursuant to Massachusetts General Laws Ch. 93A. See Exhibit 1.

BASIS FOR REMOVAL

14. United States Code, 28 U.S.C. 1441(b) provides:

Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

15. This action is brought in Massachusetts, but proper service has not been effected upon Peter Krotkov, the only defendant who is a citizen of Massachusetts. See Exhibit 5.

16. In Massachusetts, "service shall be made . . . upon an individual by delivering a copy of the Summons and of the Complaint to him personally; or by leaving copies thereof at his

last and usual place of abode; or by delivering a copy of the summons and of the complaint” to a registered agent. Mass. R. Civ. P. 4(d)(1).

17. Under Massachusetts law, where in-hand service to the defendant is not made and process is left by the deputy at an address presumed to be the party’s last and usual place of abode, but which is not that party’s last and usual place of abode, service is improper. *See Farley v. Sprague*, 374 Mass. 419, 423-425 (1978); *Konan v. Carroll*, 37 Mass. App. Ct. 225, 229 (1994).

18. The party on whom service was attempted may attest that service upon him was inadequate through an appropriate affidavit. *Farley*, 374 Mass. at 423-425; *Konan*, 37 Mass. App. Ct. at 229. Where, as here, that affidavit is uncontradicted other than by the deputy’s return, the affidavit controls. *Farley*, 374 Mass. at 423-425; *Konan*, 37 Mass. App. Ct. at 229.

19. The return of service for Mr. Krotkov (Exhibit 4) indicates that copies were left at 124 Meadow Street in Amherst, Massachusetts, alleged to be Mr. Krotkov’s last and usual place of abode. However, as set forth more fully in the affidavit attached hereto as Exhibit 5, 124 Meadow Street in Amherst, Massachusetts, is not Mr. Krotkov’s last and usual place of abode.

20. Messrs. Krotkov and Warchut assent to and join in this Notice of Removal without otherwise waiving any defenses available to them. See Mr. Krotkov’s Consent to Removal and Joinder in Notice of Removal, filed herewith and Mr. Warchut’s Consent to Removal and Joinder in Notice of Removal, filed herewith.

21. This action is removable to this Court because none of the parties in interest *who have been properly joined and served* is a citizen of Massachusetts and because all parties who have been properly joined as defendants consent to this removal.

CONCLUSION

22. This is a civil action over which the Court has jurisdiction under 28 U.S.C. § 1332 in that it is a controversy between citizens of different states involving a sum or value exceeding \$75,000, exclusive of interest and costs. The only Massachusetts defendant, Peter Krotkov, has not been properly served. This action therefore may be removed to this Court from the Superior Court of Hampshire County pursuant to 28 U.S.C. § 1441(b), and Alibris respectfully requests such removal.

23. In filing this Notice of Removal, Alibris does not waive any defenses that may be available to it.

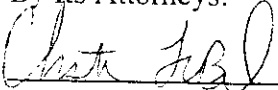
24. Prompt written notice of the filing of this Notice of Removal will be given to Mr. Councilman, with a copy for the Superior Court, as required by 28 U.S.C. § 1446(d).

25. Pursuant to 28 U.S.C. § 1446(a) and (b), this Notice of Removal is signed in accordance with Federal Rule of Civil Procedure 11 and is filed with this Court within 30 days after receipt by Alibris and Mr. Warchut of the Summons and Complaint in the above-captioned action.

Respectfully submitted,

The Defendant,
ALIBRIS, INC.

By Its Attorneys:



Katherine A. Robertson

BBO No. 557609

Christine Y. LeBel

BBO No. 600197

Bulkley, Richardson and Gelinas, LLP

1500 Main Street, Suite 2700

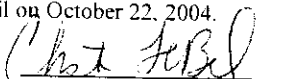
Springfield, MA 01115

Tel: (413) 781-2820

Fax: (413) 272-6804

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by facsimile and mail on October 22, 2004.


Christine Y. LeBel

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No.

FILED
04-30208-KBN
10/28/2004

BRADFORD C. COUNCILMAN,
Plaintiff

v.

ALIBRIS, INC.,
MICHAEL WARCHUT,
PETER KROTKOV,
Defendants

CONSENT TO REMOVAL and JOINDER IN NOTICE OF REMOVAL

Defendant Michael Warchut hereby consents to the removal of Hampshire County Superior Court Civil Action No. 04-161 to this Court and hereby joins in Defendant Alibris, Inc.'s Notice of Removal.

In filing this Consent to Removal and Joinder in Notice of Removal, defendant does not waive any defenses that may be available to him.

Dated: October 15, 2004

Respectfully submitted,

Defendant Michael Warchut,



Michael Warchut

FILED
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
OCT 28 2004

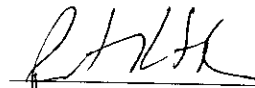
CONSENT TO REMOVAL and JOINDER IN NOTICE OF REMOVAL

I, Peter Krotkov, hereby consent to the removal to the United States District Court for the District of Massachusetts of the case captioned Bradford C. Councilman v. Alibris, Inc., Michael Warchut and Peter Krotkov, filed in Hampshire County Superior Court as Civil Action No. 04-161, and hereby join in Defendant Alibris, Inc.'s Notice of Removal.

In filing this Consent to Removal and Joinder in Notice of Removal, I do not waive any defenses that may be available to me.

Dated: October 21, 2004

Respectfully submitted,



Peter Krotkov

04 161⁶

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

Superior Court Department
of the Trial Court
Civil Action No. 04-161

BRADFORD C. COUNCILMAN,)
Plaintiff)
v.)
ALIBRIS, INC.,)
MICHAEL WARCHUT,)
PETER KROTKOV,)
Defendants)

ASSENTED-TO MOTION TO
EXTEND TIME TO ANSWER
OR RESPOND TO COMPLAINT

With the assent of the plaintiff, Bradford C. Councilman ("Councilman"), defendants Alibris, Inc. ("Alibris") and Michael Warchut ("Warchut"), hereby move the Court to extend the time for them to answer or otherwise respond to the complaint in this action until thirty days after Councilman provides notice to Alibris and Warchut of a ruling by the United States Court of Appeals for the First Circuit in the case of *United States v. Bradford C. Councilman*, No. 03-1383. As grounds for this motion, Alibris and Warchut state as follows:

1. On or around July 11, 2001, Councilman was indicted by the federal government on two counts: (1) under 18 U.S.C. § 371, conspiracy to violate 18 U.S.C. § 2511 et seq.; and (2) under 18 U.S.C. § 371, conspiracy to violate 18 U.S.C. § 1030 et seq. Councilman commenced this action on or around July 9, 2004. Alibris and Warchut were served with the complaint on or around September 24, 2004. In summary, the complaint alleged that the defendants falsely implicated Councilman in connection with a criminal investigation by the federal government.

2. In this complaint, Councilman brought claims against the defendants of malicious prosecution (Count I) and abuse of process (Count II). In connection with these claims, Councilman alleged that prior proceedings terminated in his favor because, on June 16, 2003, the

10/25/04
Allowed by agreement.
By the Court (Veleno, J.)
Attest: Nancy A. Foley, Clerk

government dismissed Count II against him and, on June 29, 2004, the First Circuit affirmed dismissal of Count I against him.

3. On October 5, 2004, the First Circuit voted to rehear en banc the matter of *United States v. Councilman*. The Court vacated the judgment entered on June 29, 2004 dismissing Count I of the indictment against Councilman.

4. Based on the First Circuit's allowance of the government's petition for rehearing en banc, Councilman has agreed that the time for Alibris and Warchut to answer or otherwise respond to the allegations in the complaint should be extended until thirty (30) days after Councilman's attorney notifies Alibris and Warchut of the First Circuit's ruling in the pending matter of *United States v. Councilman*, No. 03-1383.


5. Alibris and Warchut will report to the Court on the status of this matter when the First Circuit issues its ruling in *United States v. Councilman* or on April 1, 2005, whichever is earlier.

6. For the foregoing reasons, defendants Alibris and Warchut respectfully request that this motion be granted and that the time for them to answer or otherwise respond to Councilman's complaint be extended to thirty days after Alibris and Warchut receive notice from

Councilman's attorney of a ruling by the First Circuit on whether the indictment against Councilman will be dismissed.

Assented to:

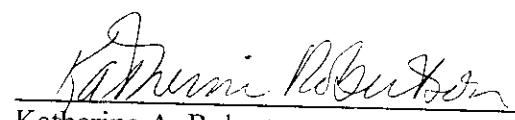
The Plaintiff,
BRADFORD C. COUNCILMAN
By His Attorneys:


Andrew Good – BBO No. 201240
Matthew Zisow – BBO No. 658726
Good & Cormier
83 Atlantic Avenue
Boston, MA 02110
Tel. (617) 523-5933
Fax (617) 523-7554

Dated: October 12, 2004

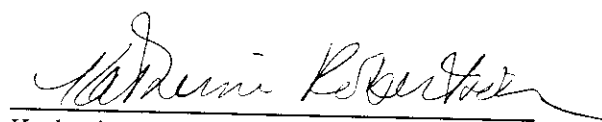
Respectfully submitted,

The Defendant,
ALIBRIS, INC.
By Its Attorney:


Katherine A. Robertson
BBO No. 557609
Bulkley, Richardson and Gelinas, LLP
1500 Main Street, Suite 2700
Springfield, MA 01115-5507
Tel: (413) 781-2820
Fax: (413) 272-6804

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by mail on October 12, 2004.


Katherine A. Robertson

#280632

5

04 161

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

Superior Court Department
of the Trial Court
Civil Action No. 04-161

BRADFORD C. COUNCILMAN,)
Plaintiff)
v.)
ALIBRIS, INC.,)
MICHAEL WARCHUT,)
PETER KROTKOV,)
Defendants)

NOTICE OF APPEARANCE

Please enter my appearance as counsel for the defendant Alibris, Inc. in the above-entitled case.

Dated: October 12, 2004



Katherine A. Robertson

BBO No. 557609

Bulkley, Richardson and Gelinas, LLP

1500 Main Street, Suite 2700

Springfield, MA 01115-5507

Tel: (413) 781-2820

Fax: (413) 272-6804

RECEIVED SUPERIOR COURT
OF THE TRIAL COURT
OCT 14 A 9 25

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail on October 12, 2004.



Katherine A. Robertson

04 161 4.

COMMONWEALTH OF MASSACHUSETTS
HAMPSHIRE, SS.

Superior Court Department of the
Trial Court of the Commonwealth
Civil Action

No. HSCV2004-00161A

BRADFORD C. COUNCILMAN

, Plaintiff (s)

v.

ALIBRIS, INC.
MICHAEL WARCHUT
PETER KROTKOV

, Defendant (s)

SUMMONS

SEP 30 A 8:57

To the above-named Defendant :

You are hereby summoned and required to serve upon Andrew Good, Esq. , plaintiff 's attorney, whose address is 83 Atlantic Ave, Boston MA 02110 , an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Northampton, either before service upon plaintiff 's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff 's claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio, Esquire at Northampton, the 20th
day of September , in the year of our Lord two thousand 4 .

Harvey J. Tamauskis, Jr.

CLERK-MAGISTRATE

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption.
If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. Circle type of action involved. Tort - Motor Vehicle Tort - Contract - Equitable relief.

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

OFF OF SERVICE OF PROCESS

HAMPSHIRE SS

I hereby certify and return that on SEPTEMBER 28, 20 04, I served a copy of the within summons, together with a copy of the complaint in this action upon the within named defendant, PETER NAOTYUK by leaving at his/her last and usual place of abode to wit:

24 MEADOW STREET, ARLINGTON, MA 02462
 Fees:
 Service: \$20.00
 Copy: 2.00
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SUMMONS
 (Mass. R. Civ. P. 4)